

## **Option 1- Preferred Municipal Delegation Route**

Notes about this option:

- Maintains 24 VSA §4420, which is the existing, but very limited, authority for local review of municipal impacts for Act 250 permits (includes Act 250 criterion 6, 7 and 10 only).
- Builds on §4420 by creating another tier, which includes full delegation of review of all Act 250 criteria across an entire municipality, based on an agreement with the NRB Director that finds a municipality's local zoning and ordinances are functionally equivalent to Act 250's review criteria. This is modeled closely on existing Shoreland Delegation statutes (10 VSA §1448). (See Burlington, Winooski & South Burlington technical memo regarding this distinction.)
- Does not use Enhanced Designation idea as currently proposed in S.100.
- This option relies on the current proposal in S.100 that raises the threshold for Act 250's applicability for a development from 10 to 25 units. The City of Burlington opposes reverting back to a 10 unit threshold. The creation of a new municipal delegation authority that is based on a 10 unit threshold would undermine years of local zoning reforms, and diminish the effectiveness of a new delegation process for Burlington.

### **Proposed Text for Option 1:**

#### ***Modify text of S.100 as currently drafted:***

1. Further amend proposed language for 10 V.S.A. §6081 on page 23, lines 20-21, and continuing on to page 24, lines 1-2, to read:

(z) In addition to all exemptions herein, No permit or permit amendment is required for any subdivision or development located in a municipality that has a municipal delegation agreement in place pursuant to 24 V.S.A. 4420a. an enhanced designation area. If the enhanced designation is terminated, a development or subdivision within the designated center must receive a permit, if applicable.
2. Strike proposed language for Sec. 19 (regarding 24 V.S.A §2793f), Sec. 20 (regarding 10 VSA §6001(45)), and Sec. 21 (regarding Enhanced Designation Bylaw Adoption) on pages 23-29.

#### ***And add language establishing a new municipal delegation authority within 24 V.S.A. § 4420 to text of S.100:***

1. Replace the proposed Enhanced Designation language with the following. This creates new authority for full delegation for permitting at the local level in lieu of Act 250 for municipalities with local regulations that are functionally equivalent to Act 250 criteria:

#### **§4420a. Municipal Delegation**

(a) Notwithstanding the local review of municipal impacts authorized in Section §4420 above, the Executive Director of the Natural Resources Board (Director) shall delegate authority to permit a subdivision or development to a municipality who has:

- (1) The criteria specified in this section have been adopted in the appropriate bylaws authorized under this chapter.
- (2) The municipality's plan has been duly adopted under the provisions of this chapter.

- (3) The municipality has adopted zoning bylaws and subdivision bylaws, either separately or incorporated into one unified development bylaw.
- (4) adopted bylaws and/or other ordinances regulating subdivisions, development and the impacts of development that is/are, as determined by the Director, functionally equivalent to the requirements of 10 V.S.A. §6086 (a); and
- (5) the Director shall determine that the municipality provides adequate resources for administration and enforcement of the bylaw or ordinance.

(b) Delegation Agreement

(1) Delegation under subsection (a) of this section shall be by agreement between the Director and the delegated municipality. The delegation agreement shall set the terms for revocation of delegation.

(2) Under the delegation agreement, the Director and the municipality may agree on geographic areas of the municipality or conditions under which municipal delegation will not be applicable, and requirements of 10 V.S.A. §6086 continue to apply.

(3) Under the delegation agreement, the Director and the municipality may agree, in instances where a delegated municipality does not or cannot address noncompliance, that the Director, after consultation with the municipality, may institute enforcement proceedings under 10 V.S.A. Chapter 201.

(4) The delegation agreement shall require the municipality to:

(A) have or establish a process for accepting, reviewing, and processing applications and issuing permits for subdivisions and development;

(B) take timely and appropriate enforcement actions;

(C) commit to reporting annually to the Director on a form and date determined by the Director;

(D) cure any defects in such bylaw or ordinance or in the administration or enforcement of such bylaw or ordinance upon notice of a defect from the Director.

(4) A municipality that seeks delegation under subsection (a) of this section shall be presumed to satisfy the requirements of this subsection for a permit process and enforcement if the municipality has designated a municipal zoning administrator or other municipal employee or official as responsible for the permitting and enforcement of the construction, creation, or expansion of subdivisions or developments within the municipality.